

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE:

Christopher B Pemental

First Horizon Home Loan Corporation,

VS.

Christopher B Pemental

CHAPTER 7
CASE NO. 07-11093-ANV

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Arthur N. Votolato:

First Horizon Home Loan Corporation, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of P.O. Box 630664, Mail Code: 6206, Irving, TX 75063.
2. The debtor, Christopher B Pemental, has a mailing address of P.O. Box 621, Warren, RI 02885.
3. On June 18, 2007, the debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$350,000.00 given by Christopher Pemental to Mortgage Electronic Registration Systems, Inc. on or about September 7, 2004. Said mortgage is recorded with the Records of Land Evidence in the Town of Barrington at Book 869, Page 84 and covers the premises located at 66-68 County Road, Barrington, RI 02806.
5. Said mortgage secures a note given by Christopher Pemental to Mortgage Electronic Registration Systems, Inc. in the original amount of \$350,000.00.

6. As of July 12, 2007, approximately \$368,607.41 in principal, interest, late fees and other charges was due with regard to First Horizon Home Loan Corporation's note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.
7. There are no other encumbrances on the property:
8. According to the debtor's schedules, the fair market value of the subject property is \$399,000.00.
9. The note and mortgage are in default for the January 1, 2007 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the movant.
10. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:
- I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtor is in default on said contractual obligations.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

First Horizon Home Loan Corporation,
By its Attorney

/s/ Kathryn A. Fyans

Kathryn A. Fyans, Esquire

RI #7360

HARMON LAW OFFICES, P.C.

P.O. Box 610389

Newton Highlands, MA 02461-0389

617-558-0500

Dated: July 20 , 2007

Within ten (10) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

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CERTIFICATE OF SERVICE

I, Kathryn A. Fyans, Esquire, state that on July 20, 2007, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Leonard DePasquale, Esquire
Lisa A. Geremia, Ch. 7 Trustee
Matthew J. McGowan, Esquire for Debtor

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Kathryn A. Fyans
Kathryn A. Fyans, Esquire
RI# 7360

Christopher Pemental
P.O. Box 250
Barrington, RI 02806

Christopher B Pemental
P.O. Box 621
Warren, RI 02885

CitiMortgage, Inc.
c/o McCalla Raymer LLC
Bankruptcy Department
1544 Old Alabama Road
Roswell, GA 30076

KAF/TXF/200704-0765/Pemental, Christopher